

THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.13932 OF 2005

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Dated: 07-12-2006

Between:

Kuruva Pedda Venkataswamy
and three others.

... Petitioners

And

The Special Deputy Collector,
Alaganur Balancing Reservoir,
SRBC, LAO, Kurnool.

... Respondent

ORDER:-

The petitioners were the assignees of the lands in an extent of Ac.2.50 cents in Survey No.519 of Alagunur village, Midthur Mandal, Kurnool District in respect of which D-form pattas were issued to them. The assigned land was resumed in the year 2000 for the benefit of the Alaganur Balancing Reservoir and according to the extant Government policy, exgratia amounts were sought to be paid for the assignees. When the respondent was about to pay the exgratia amount to the petitioners, it would appear that one Kuruva Venkataswamy, S/o Naganna of the village filed OP 21 of 2002, in Forma Pauperis, on the file of the learned Senior Civil Judge, Nandikotkur, against the petitioners 1 and 3 and the respondent for a declaration of his share in the compensation amount payable by the respondent and obtained interim orders in IA 59 of 2002 in POP No. 21 of 2002, prohibiting the respondent from paying exgratia to the petitioners. However, POP 21 of 2002 itself was dismissed by the court concerned on 17-11-2004 with the observation that the plaintiff therein should pay court fee within a month, otherwise the suit could not be entertained, while directing payment of costs by the plaintiff to the defendants 3 and 4 therein.

On 27-4-2005, the respondent issued an endorsement (on the representation of the petitioners for payment of compensation/

exgratia), stating that in view of the earlier orders dated 25-4-2002 in IA 59 of 2002 in POP No.21 of 2002, the respondent cannot pay compensation to the petitioners. The endorsement further stated that there was no order of the court of the learned Senior Civil Judge, Nandikotkur declaring the petitioners entitlement to the compensation.

Curiously the endorsement stated that the order of the court of the Senior Civil Judge, Nandikotkur, dated 17-11-2004 does not contain a declaration of the petitioners right to compensation. The counter-affidavit filed by the respondent, admits in para 4 that by the order dated 17-11-2004, the learned Senior Civil Judge, Nandikotkur had dismissed POP No.21 of 2002 declaring that the plaintiff is required to pay court fee within the stipulated time, failing which the suit could not be entertained. In the context of such an order determining merely the application for suing in Forma Pauperis, the court would not and did not declare the right of the plaintiff to a share in the compensation or the respective share of the plaintiffs and the party defendants therein.

In the circumstances, the impugned endorsement dated 27-04-2004 issued by the respondent is seen to be irrational and is so declared. The respondent is directed to ascertain from the court of the learned Senior Civil Judge, Nandikotkur whether the plaintiff therein Kuruva Venkata Swamy had in fact paid the court fee and is prosecuting the suit; whether there is any extant order of the court of the learned Senior Civil Judge, Nandikotkur interdicting payment of compensation/ exgratia to the petitioners herein. On such enquiries by the respondent if it is revealed that there is no such order prohibiting payment of compensation/exgratia amount to the petitioners, the

respondent shall pay the compensation to the petitioners within a period of 90 days from the date of receipt of a copy of this order.

The writ petition is disposed of as above. No costs.

Date:07-12-2006

GRR/PNV

G.RAGHURAM,J

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